

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 23-025

**TOWN OF LEE
249 Calef Highway
Lee, NH 03861**

**Request for Approval of Lee Community Power
Electric Aggregation Plan**

Conditional Approval of Community Power Aggregation Plan

ORDER NO. 26,810

May 2, 2023

In this order, the Commission conditionally approves the Town of Lee's (Lee) Community Power Electric Aggregation Plan (Plan). The condition of approval relates to language that must appear in education and outreach materials.

I. BACKGROUND

On March 8, 2023, Lee submitted a request for approval of a community power aggregation plan to provide electric power supply and services for residents, businesses, and other entities in Lee pursuant to RSA chapter 53-E. Accompanying its request, Lee submitted the text of its Plan.

On March 14, 2023, the Commission issued an order of notice establishing a deadline for comments on Lee's Plan. The New Hampshire Electric Cooperative (NHEC) filed comments on March 22, 2023.

Lee's request, along with all subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, is posted at: <https://www.puc.nh.gov/Regulatory/Docketbk/2023/23-025.html>.

II. COMMISSION ANALYSIS

The Commission has reviewed Lee's Plan pursuant to RSA 53-E:7, II, as amended, which states that

The commission shall approve any plan submitted to it unless it finds that it does not meet the requirements of this chapter and other applicable rules and shall detail in writing addressed to the governing bodies of the municipalities or counties concerned, the specific respects in which the proposed plan substantially fails to meet the requirements of this chapter and applicable rules.

RSA 53-E:7, II also provides specific direction on the process to be used for the submission of such plans, including the following requirements: 1) on the same day the plan is submitted to the Commission, copies shall be provided to the Office of the Consumer Advocate and any electric distribution utility providing service within the jurisdiction of the municipality; 2) the Commission shall accept public comments for 21 days thereafter; and 3) the Commission's review of the plan and comments shall not require a contested case. N.H. Code Admin R. Puc 2204.01 (a) also requires notification of aggregation plan filings be made with the New Hampshire Department of Energy. Lee's submission complied with these procedural requirements.

NHEC identified two issues. First, the NHEC identified that Section III.d of the plan "commits the Competitive Supplier to provide all-requirements power supply" and includes "transmission services" while RSA 53-E:4, III requires that "Transmission and distribution services shall remain with the transmission and distribution utilities..."

Second, NHEC identified that Section X, related to rights and responsibilities of program participants, states that: "All participants will have the right to opt out of the Program at any time without charge" while Puc 2204.05(g) states that: "Customers enrolled in a community power aggregation plan operated on an opt-out basis may elect to transfer to utility provided default service or to a competitive electric power

supplier with adequate notice in advance of the next regular meter reading by the distribution utility...”

With respect to Section III.d, we do not read the plan to imply that Lee’s Community Power Program intends to operate as a transmission utility, rather that the plan conveys that in providing electric energy supply, the Competitive Energy Power Supplier must be responsible for obtaining all required products associated with the purchase of energy from the ISO-NE marketplace as a Market Participant End-User, such as transmission.

With respect to the Plan’s language in Section X, stating that “participants will have the right to opt out of the Program at any time without charge,” we agree with the NHEC that this language may be misleading to consumers as a statement of the participant’s rights and responsibilities. As was noted in the rulemaking process that led to the adoption of Puc 2204.05(g), changes to a customer’s supplier must be provided with adequate notice to the distribution utility before the next meter read date, and not all distribution utilities offer off-cycle meter reading services. *See* Docket No. DRM 21-142, *Summary of Comments and Reply Comments on Initial Proposal with Responses* (tab 42) at page 20. We also note that at page 9 of the Plan, in a section related to the substantive terms any supplier will have to agree to, Lee’s Plan requires that after enrollment customers may exit the program at any time on their next regular meter read with no charge from the supplier. Lee acknowledges that once operational, the customer will not be able to freely exit the program *at any time* without penalty.

As such, we condition approval of Lee’s Plan on its Education and Outreach Plan clearly communicating that participants’ exit from the program will be subject to

reasonable notice to the distribution utility and may only occur after the next meter read, consistent with Puc 2204.05(g).

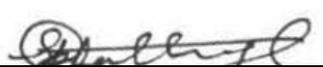
Apart from this condition, we have determined that Lee's Plan does not substantially fail to meet applicable requirements of RSA Chapter 53-E. Lee's Plan contains an adequate level of detail of RSA 53-E:6's statutory criteria, other applicable statutory requirements, and applicable rules including N.H. Admin R. ch. 2200.

Based upon the foregoing, it is hereby determined that the Town of Lee's Plan is CONDITIONALLY APPROVED.

By order of the Public Utilities Commission of New Hampshire this second day of May, 2023.



Daniel C. Goldner
Chairman



Pradip K. Chattopadhyay
Commissioner



Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket#: 23-025

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